

STATE OF MICHIGAN

20th CIRCUIT COURT FOR THE COUNTY OF OTTAWA

PATRICK FLYNN, AJ RATERINK,  
PATRICIA LOOKS, BRIAN DOKTER,  
and STEVE AND JAMIE LEMIEUX,

Plaintiffs,

File No. 21-6624-CZ

Hon. Jon Hulsing

v

OTTAWA COUNTY DEPARTMENT OF  
PUBLIC HEALTH, LISA STEFANOSKY,  
M.ED., in her official capacity as  
Administrative Health Officer for  
the Ottawa County Department of  
Public Health AND THE OTTAWA COUNTY  
BOARD OF COMMISSIONERS,

Defendants.

PLAINTIFF'S COMPLAINT FOR IMMEDIATE DECLARATORY RELIEF  
AND MANDAMUS AND MOTION FOR SUMMARY DISPOSITION  
AND  
DEFENDANT'S MOTION TO DISMISS AMENDED COMPLAINT FOR IMMEDIATE  
DECLARATORY RELIEF AND MANDAMUS

BEFORE THE HONORABLE JON HULSING, CIRCUIT JUDGE

Grand Haven, Michigan - Monday, December 6, 2021

APPEARANCES:

For the Plaintiffs:

D. Adam Tountas (P68579)  
Jonathan B. Koch (P80408)  
Smith Haughey Rice & Roegge  
100 Monroe Center, NW  
Grand Rapids, Michigan 49503  
(616)774-8000

For the Defendants:

Douglas W. Van Essen (P33169)  
Silver & Van Essen, PC  
300 Ottawa Avenue, NW, Suite 600  
Grand Rapids, Michigan 49503  
(616) 988-5600

Recorded and  
Transcribed by:

Lorri L. Coleman, CER 8536  
Ottawa County 20<sup>th</sup> Circuit Court  
414 Washington Avenue, Suite 300  
Grand Haven, Michigan 49417  
(616) 846-8322

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None		

1 Grand Haven, Michigan

2 Monday, December 6, 2021 - 3:04 p.m.

3 THE COURT: This is file number 21-6624-CZ,  
4 Patrick Flynn, et al, versus the Ottawa County Department  
5 of Public Health, Lisa Stefanovsky, and the County Board  
6 of Commissioners. Counsel are here. I have reviewed all  
7 of the materials in advance of today's hearing. I also  
8 had a brief conversation with counsel in chambers  
9 regarding possible DQ or recusal, and it's my  
10 understanding that neither counsel believes that there's  
11 a conflict with the court sitting in this case. I did  
12 share some communications that I had with the other  
13 judges and with Mr. Van Essen prior to this lawsuit being  
14 filed and that was dealing with county protocols as it  
15 pertained to mask mandates and I shared those emails.  
16 Obviously Mr. Van Essen has seen them in the past. I  
17 shared them with Mr. Tountas, but we're okay to proceed  
18 then?

19 MR. TOUNTAS: We are, your Honor.

20 THE COURT: Okay.

21 MR VAN ESSEN: Yes, your Honor.

22 THE COURT: Who wishes to go first? I know we  
23 kind of have cross motions, but I'll leave it -- who  
24 wishes to go first?

25 MR. TOUNTAS: He filed first, if you want to

1 go.

2 MR VAN ESSEN: It's my motion and I'm older.

3 THE COURT: Mr. Van Essen, you may proceed.

4 MR VAN ESSEN: So age before beauty, your  
5 Honor.

6 THE COURT: There we go.

7 MR VAN ESSEN: Good afternoon again, your  
8 Honor. Doug Van Essen on behalf of Lisa Stefanovsky, the  
9 Board of Commissioners, and the Department of Public  
10 Health of Ottawa County.

11 The plaintiff's position, as I understand it  
12 from reading their brief, your Honor, is that the court's  
13 task is very easy. You just apply the plain language of  
14 Chapter 2441 and Chapter 2453. You don't even have to  
15 interpret the two, and in their view it's clear that the  
16 promulgation processes for 2441 and 2442 apply to any  
17 order issued under 2453.

18 Honestly, your Honor, if we're not going to get  
19 to statutory interpretation, then I think clearly the  
20 defendant's motion must be granted. That is to say  
21 there's nothing in 2441 that says it applies to an order  
22 issued by a health officer under 2453. There's nothing  
23 in 2453 that says the promulgation procedure described by  
24 the statute in 2441 and 2442 applies to a health  
25 officer's issued order under 2453 or 2451, which is the

1       imminent hazard or imminent threat statute. So the plain  
2       language of the Public Health Code would seemingly  
3       support the defendant's position that the orders are --  
4       and the Public Health Code at least -- different from  
5       regulations, and one cannot say that under the Public  
6       Health Code every order is also a regulation and indeed  
7       we know that's not true. This court is eventually going  
8       to issue an order as a state officer. It's not going to  
9       issue a regulation. It doesn't promulgate regulations.  
10      Regulations are part of the positive law of the state or  
11      public health regulations adopted by Ottawa County are  
12      akin to an ordinance and they're part of the positive law  
13      of the -- of Ottawa County. Orders have the hallmark of  
14      typically -- not always because the Public Service  
15      Commission can issue an order, but typically they're  
16      issued by officers and they're not promulgated in the  
17      sense of notice and an opportunity to be heard, but  
18      rather they're issued upon factual findings and they're  
19      temporal in nature.

20               Now, the plaintiffs argue that in 2441 it has  
21      language that talks about regulations track with the  
22      authority given to the department under the Public Health  
23      Code, but that's the department, not the health officer.  
24      The provisions of 2451 and 2453 are personal to the  
25      health officer. The mask mandate was issued not by the

1 Public Health Department, but it was issued by the health  
2 officer as the mask mandates of 2020 were issued by the  
3 director of the department, not by the Michigan  
4 Department of Community Health.

5 I have before the court the relevant sections  
6 from the Public Health Code that I think the court needs  
7 to review and we start with 2233. This is the language  
8 in chapter 22 that pertains to the state's authority, but  
9 the language is almost exactly as the legislature use  
10 when it turned in 24 -- chapter 24 to the local health  
11 department's authority. So, we see in 2233 that the  
12 department may promulgate rules. We have an actor, the  
13 agency. We have a process, a discretionary process may  
14 promulgate. We have an object, it's a regulation.

15 2251, Imminent Danger. We have the director  
16 now, a different actor, that upon a different process a  
17 finding of imminent health shall -- not discretionary,  
18 but shall immediately issue a notice and shall issue an  
19 order immediately; not a promulgation as under 2233 which  
20 requires the Administrative Procedures Act to be  
21 followed, 30 days' notice at a minimum. Now we have an  
22 imminent danger by a different actor, the health -- the  
23 director of the Department of Health, who has to do  
24 something immediate and that is to issue a notice and an  
25 order.

1                   My friends Larry Willey and Chip Chamberlain  
2                   are defending Director Lyon, Nick Lyon, who is the  
3                   accused by the state of Michigan of violating his  
4                   personal duties under 2251 with respect to the Flint lead  
5                   crisis. Namely, he knew there was an imminent threat.  
6                   He essentially made those findings in a number of  
7                   communiques, but he failed to immediately notify the  
8                   residents of Flint or to issue an order trying to protect  
9                   them from the imminent health hazards, and that is  
10                  alleged by the state of Michigan to be a personal,  
11                  criminal violation of the law by not the department, but  
12                  by the director at the time, Nick Lyon.

13                 Then we see the same statute effectively for  
14                 the health -- the Director of Community Health in  
15                 epidemics, that if the director determines that control  
16                 of an epidemic is necessary, the director by emergency  
17                 order may prohibit the gathering of people for any  
18                 purpose. There's no sense that you have to wait for 30  
19                 days and have the department promulgate a gathering  
20                 restriction order. It is an emergency order which can go  
21                 in effect upon the finding that the epidemic requires it.

22                 In structuring penalties and violations for the  
23                 Public Health Code or rules promulgated or orders issued  
24                 in 2262, we have the department now may promulgate a  
25                 regulation that will set a fine schedule or other penalty



1       for a violation of the code, the statute, a violation of  
2       the regulation promulgated -- again, a different process,  
3       a different object, namely a regulation -- or the  
4       issuance of an order, that personal order which the  
5       director can issue. Clearly, if you look at the  
6       Department of Community Health's authoritative --  
7       authority given by the Public Health Code, you see a  
8       distinction between the positive law regulation and a  
9       temporal, immediate issuance of an order such as the  
10      court would issue upon a finding of certain conditions.

11               So then we migrate over to chapter 24 which is  
12      obviously the set of statutes we're most focused on now.  
13      The premise of the plaintiffs apparently is that the  
14      legislature would use the same terms but in a different  
15      fashion with respect to local health departments.  
16      There's nothing in here that would suggest that. In  
17      fact, it uses the same language. 2441, the department.  
18      When the department is the actor, it may adopt  
19      regulations -- which is different than issuing an order  
20      -- to carry out the functions or the duties vested by law  
21      in the department as opposed to the officer. The  
22      regulations then have to be approved by the local  
23      governing body in a process that typically requires --  
24      well, that does according to 2442 require notice and an  
25      opportunity to be heard and a minimum of 20 days.

1       There's no way you can promulgate a county health  
2       department regulation in less than 20 days because 2442  
3       absolutely requires a minimum comment period of 22 days  
4       before any regulation can be promulgated at the local  
5       level.

6               We then have the same imminent hazard statute  
7       in 21 -- 2451 and now it's not the department. It's a  
8       different actor. In this case it's the health officer  
9       with a personal responsibility that's obligatory, not  
10      discretionary. It's an obligation of Lisa Stefanovsky if  
11      she finds there is an imminent danger to public health  
12      that she immediately issue a notice and an order to  
13      individuals affected by that imminent danger. There are  
14      sections in here which immediately -- that define  
15      imminent danger, which clearly indicate not a reflective  
16      notice opportunity and promulgation opportunity, but  
17      imminent action based on factual findings of an imminent  
18      threat. That is carried over to epidemics in 2453. If a  
19      local health officer determines that control of an  
20      epidemic is necessary to protect the public health, the  
21      health officer may issue an emergency order to prohibit  
22      the gathering of people.

23              Now, all attacks on my client Lisa  
24      Stefanovsky's issuance of the order in this case  
25      independent of the possible interface of the Board of

1 Commissioners have been dropped. At this point it is  
2 conceded by the plaintiffs that she made adequate  
3 findings of fact that there was an epidemic and that  
4 supported adequately her issuance not of any order, but  
5 of an emergency order, and courts have already determined  
6 that the mask mandate as a condition for gathering is a  
7 sufficient or appropriate exercise of -- whether it's  
8 2253 as it was last year or 2453 as it is this year, a  
9 health officer or Community Mental Health director's  
10 exercise of this particular statute.

11 In section 2 of this key statute, there's a  
12 discussion about providing involuntary detention. So, a  
13 health officer can -- whether it's AIDS or whether it is  
14 chickenpox, theoretically the health officer has the  
15 ability to abate that condition or to abate that threat  
16 by actually issuing an order that would require the  
17 detention of individuals who are contagious and who are a  
18 threat to public health. Now, obviously there's a whole  
19 process whereby once detained the individual has to be  
20 given due process and an opportunity and -- earlier in  
21 the epidemic and, in fact, we still haven't repealed  
22 that. We -- Judge Van Allsburg issued a blanket order  
23 allowing the health department to seize individuals in  
24 COVID and place them in detention. We haven't exercised  
25 that blanket order and that order does require within 48

1 hours that a petition be filed, et cetera, compliant with  
2 2453 too, but that's how imminent and urgent activities  
3 are under 2453.

4 We have the same disjunctive language, your  
5 Honor, in the local health department's authority as we  
6 have with the department when it comes to establishing  
7 violations. This time it's the Board of Commissioners,  
8 again like it would be the department pursuant to  
9 regulation, that would have to promulgate a fee schedule,  
10 a fine schedule, and again the objects are disjointed. A  
11 violation of the code, a violation of the Board of  
12 Commissioners' approved regulations, or the violation of  
13 an issued order can all be the subject of that regulation  
14 that establishes those fines.

15 So, it isn't just the notion that we can equate  
16 regulation and order that the court would have to  
17 undertake and essentially find that all orders are  
18 regulations in this context, but you'd also have to  
19 ignore the issuance versus promulgation language that is  
20 there with both the department and with the local health  
21 department. And you would also have to find that it's  
22 irrelevant that the legislature always chooses order in  
23 association with an individual's responsibility or  
24 authority to issue these orders and it always selects  
25 agency or local health department when it uses the verb

1 promulgate and the object regulations. You would have to  
2 find that it's meaningless that in both the violation  
3 sections the legislature chose to authorize regulations  
4 or rules that would make discreet fines for a violation  
5 of the statute, regulations, or the rules. That  
6 obviously we know there's a difference between the  
7 statute and the regulations, but you would have to find  
8 that it's a nullity that they added the fines and the  
9 possibility of fines for the violation of issued orders  
10 that they meant the same thing as a regulation. And, in  
11 fact, the court would have to engage in mental gymnastics  
12 that in the hundred years of this statute no court has  
13 ever even been asked to do. If they're right then  
14 Director Gordon's or Director Hertel's mask mandates last  
15 year were equally ineffective because they weren't  
16 promulgated regulations. No one challenged that. I  
17 submitted the opinion of the House attorney that despite  
18 the request of Representative Meerman, said, no, this is  
19 an issued order of the health officer. The Board of  
20 Commissioners has nothing to do with either approving or  
21 disproving those emergency orders under this particular  
22 statute.

23 If the court were to grant the plaintiff's the  
24 declaratory relief that they're asking, the health  
25 department and the health officer would be unable to meet

1 the regular and ordinary use of 2253, which is  
2 noroviruses such as we had at Hope College a few years  
3 ago, the chickenpox case that -- or the chickenpox  
4 situation which Judge Miedema recently resolved. Those  
5 were orders that had to be issued in an urgent situation  
6 where the time period for contagion was well under 20  
7 days, where if 20 days had to be waited before the health  
8 department's officers could act, the contagion would have  
9 spread and would have defeated the very purpose for the  
10 order. This code was developed after the pandemics of  
11 the flu and of smallpox. It has now been used again a  
12 hundred years later for COVID. We can all hope we never  
13 have to have another epidemic order of that nature, a  
14 pandemic, as applied locally or at the state level  
15 through these statutes, but to take away their regular  
16 tool for dealing with smallpox or chickenpox or measles  
17 or noroviruses would mean to defeat the obvious intent of  
18 the legislature in giving health officers the personal  
19 authority and cloak them with the power to deal with  
20 those situations. We respectfully request that the court  
21 not accept that invitation. Thank you.

22 THE COURT: Thank you. Mr. Tountas?

23 MR. TOUNTAS: Thank you, your Honor. Adam  
24 Tountas here on behalf of the plaintiffs. Your Honor,  
25 it's this simple: The August 20 and October 8 mask

1 mandates are unenforceable, invalid, and they are that  
2 way because they were not voted on by the local governing  
3 entity. In this instance, the Board of County  
4 Commissioners.

5 The defendants acknowledge this is a case of  
6 statutory construction and Mr. Van Essen stood at this  
7 podium eloquently for about 25 minutes and didn't engage  
8 of one instance of statutory construction, didn't talk  
9 about these words, didn't cite a case, didn't cite a  
10 legal dictionary, didn't cite a lay dictionary. That's  
11 what we have to do, your Honor, when we interpret code  
12 sections. We do that because words have meaning, because  
13 in order to understand what the law says you have to  
14 understand what those words mean, and when you do that  
15 text is king. Text is where we go first and we start  
16 with the framework.

17 Let's start with the framework of the local  
18 Public Health Act. You have MCL 333.2413 which says a  
19 local governing entity -- in this case, your Honor, the  
20 Board of Commissioners -- creates the health department.  
21 Section 2428 says that local governing entity appoints  
22 the health officer, in this case Ms. Stefanovsky. She  
23 doesn't act with any authority in her own right. She  
24 acts because she was appointed to act in that fiduciary  
25 capacity by the County Commission. And then you have

1 another section, 2441, the one we're talking about today,  
2 which says the health department may adopt regulations  
3 but they shall be subject to the oversight of the local  
4 governing entity. It's within that entire framework of  
5 accountability that these questions are answered. And we  
6 do have the epidemic section and the pandemic section  
7 which says that -- these are specifically 2451 and 2453  
8 that mention the term order and those words are undefined  
9 in the statute. They're undefined in any single section  
10 of the health code, the broad one and the one that deals  
11 with local health agencies, and so here we're stuck in  
12 this quandry. We don't know what those words mean  
13 without engaging in statutory construction and our  
14 supreme court at the state and federal level has shown us  
15 how to do that. You go to a dictionary, and we've cited  
16 three different dictionary definitions that deal with  
17 these terms. Black's Law Dictionary, which is the one  
18 we're taught to go to in law school first and foremost,  
19 it says a regulation is, quote, an official rule or order  
20 having legal force usually issued by an administrative  
21 agency. Merriam Webster's Dictionary of the Law, which  
22 the state supreme court has cited on more than on  
23 occasion, defines regulation as, quote, an authoritative  
24 rule, specifically a rule or order issued by a  
25 governmental agency and often having force of law. We



1       also cited Merriam Webster's Collegiate Dictionary to  
2       have a lay dictionary's take on this issue that says a  
3       regulation is, quote, a governmental order having the  
4       force of law. So wherever you look, whichever one of  
5       these tools out of the kit that the supreme court has  
6       said you go to to interpret a statute, we come to this  
7       conclusion: An order is a type of regulation issued by  
8       an administrative agency. It's how that agency tells  
9       people like me and my kids and these plaintiffs here's  
10      what you can do, here's what you can't do. It's how that  
11      agency regulates and governs. And so if those two terms  
12      are the same, now we know how we have to read section  
13      2441. Now we understand that even though you're allowed  
14      to have the issuance of an emergency order and you can do  
15      so without the notice and hearing provided in 2441, that  
16      doesn't mean you get to issue that order in an  
17      accountability vacuum. That is an absurd result when you  
18      look at the entire framework where the County Commission  
19      creates a health department, appoints an administrator,  
20      and has final say over what does and doesn't have the  
21      force of law.

22               Now, the argument that Mr. Van Essen offered  
23      basically comes down to this: Well, of course they mean  
24      different things. They're different words. And we're  
25      not going to bother looking at what those words mean in

1 the law or in a dictionary of any sort, but they're  
2 different and so they have to be different because of  
3 chickenpox or because of this instance that happened a  
4 hundred years ago. Those are textually unsupportable  
5 arguments. There's nowhere in the local health code that  
6 it says you can issue a regulation, but it can't deal  
7 with disease. You know, your regulations, you can issue  
8 orders about stuff that isn't subject to normal business.  
9 It simply says you can issue an order if you have to act  
10 more rapidly and outside the auspices of the normal  
11 rulemaking process, but it does not, your Honor. There's  
12 no textual support in the statute, no case they've cited,  
13 no case we've cited that says you're otherwise immune  
14 from accountability. You're otherwise outside the scope  
15 of the local governing entities' absolute authority to  
16 regulate what does and doesn't have the authority of law.

17 Now, the point I would offer if you're going to  
18 go for these non-textual arguments is to, good grief,  
19 look at the statutory framework. You know, they say,  
20 well -- and they made this argument in writing, your  
21 Honor: Well, look, if regulations and orders were  
22 subject to the same approval process, then you've  
23 basically merged the rules and it's the first one and  
24 everything's gotta go through notice and comment. Well,  
25 no, that's not true. Notice doesn't show up in the other

1 section. But flip the argument. What if they're right?  
2 What if there's this regulation rulemaking process which  
3 is arcane and takes a long time and is out here, but then  
4 there's this process the administrator can use whenever  
5 he or she decides they want to, not subject to any  
6 review, judicial, elected official or otherwise? It can  
7 be about any subject matter they want that's normally  
8 within the purview of the health department and there's  
9 not a darn thing anybody can do about it whether here,  
10 whether at the County Commission meeting, or otherwise.  
11 That is where the exception swallows the rule. That is  
12 untenable when you look at the statutory framework of the  
13 Public Health Code.

14 And, quite frankly, -- I'm not embarrassed to  
15 state from the podium, we said it in our brief -- it's  
16 un-American. We don't live in East Germany in some  
17 administrative state where somebody who's unelected gets  
18 to make rules that dictate the scope, course, and  
19 trajectory of our lives. We live in the United States of  
20 America where elected officials are accountable to us at  
21 the ballot box and they are ultimately in charge of the  
22 people that they appoint subject to our accountability.  
23 That's how we do government in this country. They have  
24 cited no case suggesting otherwise. They have pointed us  
25 to no legal dictionary suggesting we've got order and

1 regulation wrong. They do nothing but stand up here and  
2 weave a confusing tapestry about chickenpox and hundred  
3 year-old rules and that's nonsense. That's not how we do  
4 it. The August 20 order is invalid because it was not  
5 voted on by the County Commissioners that my clients  
6 elected, that I elected, that sit in control of that arm  
7 of government and so they should be stricken.

8 Now, that brings us to our second item of  
9 relief which is this order of mandamus. Your Honor, we  
10 cited the arguments and the authority in our brief.  
11 Mandamus can't compel the exercise of discretion in any  
12 particular way, but it can compel the exercise of  
13 discretion, period. We think that's an appropriate  
14 remedy here. It's not about masks. This is about the  
15 process. This is about forcing the County Commissioners  
16 to do what they were elected to do, which is to sit and  
17 make a difficult judgment call on whether kids in school  
18 should be wearing masks. If they take that vote and they  
19 say yes, then kids wear masks, period, until we have new  
20 commissioners and that's the way we do government in this  
21 country. But if they say nothing, Ms. Stefanovsky's  
22 order means nothing because it has no force and effect of  
23 law. And so the second item of relief we're asking for,  
24 your Honor, is not just to strike down these unlawful  
25 orders, but it's to require the County Commission to vote

1 if they insist on renewing these orders or mandating  
2 vaccines or mandating anything down the road that we  
3 can't think of now outside the COVID pandemic or not in  
4 the interest of public health. When the health  
5 department acts, it does not do so in an accountability  
6 vacuum. And we'll rest on our brief beyond that. Thank  
7 you, your Honor.

8 THE COURT: Mr. Van Essen, these orders are  
9 set to expire, like, on January 3 or something; is that  
10 accurate?

11 MR VAN ESSEN: January 2nd.

12 THE COURT: Right before the kids return from  
13 the school break?

14 MR VAN ESSEN: That's correct, your Honor.

15 THE COURT: All right. Thank you very much.  
16 I thank the attorneys for their presentation. I thank  
17 everybody for the ton of time that they spent on doing  
18 these briefs. I note that the court has about 56 days to  
19 render its opinion. It would be, I guess, easy for a  
20 judge to say, oh, it's December 6 today and January 2 or  
21 3 is less than a month away. I'll sit on it and moot it  
22 out. I'm not going to do that. I'm going to make a  
23 decision. I'm going to give my reasons for it, but I'm  
24 going to give the answer right now because I don't want  
25 the persons who are concerned in this to say what's this

1        guy talking about? What's the answer? Are the  
2        director's orders lawful? Yeah, they are and here's why.  
3        So, I'm not going to grant the relief that Mr. Tountas  
4        requests. I am going to grant the relief that corporate  
5        counsel would like.

6                    Under MCL 333.2428, the local health officer  
7        has powers and duties. Those are powers and duties given  
8        to the local health officer. On section 23 -- excuse me  
9        -- 2433, they are the duties of the local health  
10       department. It's different. 2441 is the adoption of  
11       regulations, which is why we're here, but as Mr. Van  
12       Essen points out, to adopt those regulations there's a  
13       notice requirement and it's at least 20 days. 2442 gives  
14       a notice requirement and that's perfectly fine for  
15       regulations, but to require the County Board of  
16       Commission to act on an order by the health officer, that  
17       would gut 2453 if the local health officer -- this is not  
18       the department, this is the local health officer --  
19       determines that control of an epidemic is necessary to  
20       protect public health, he or she may issue emergency  
21       orders. I mean, my goodness, we can think of situations  
22       where there's an epidemic and to require 20 days to  
23       evaluate that and have politicians look at that and in  
24       the meantime the epidemic is spreading perhaps by  
25       wildfire. No. This order can be issued immediately.

1 And then 2451, imminent danger to health or lives. Upon  
2 determination that imminent danger to the health or lives  
3 of individuals exists, the local health officer, not the  
4 department, the local health officer immediately shall  
5 inform the individual affected by the imminent danger to  
6 issue an order shall be delivered to a person authorized  
7 to avoid, correct, or remove the imminent danger.

8 Imminent, immediate. To require 20 days and then maybe  
9 up to 45 days to issue the regulation, that would gut  
10 2451 of its meaning. And then 2443, except as otherwise  
11 provided in this act, a person who violates a regulation  
12 of a local health department or an order of a local  
13 health officer -- they're two separate animals -- is  
14 guilty of a misdemeanor. It's a regulation of a local  
15 department or an order of a local officer. They're  
16 separate animals here.

17 So obviously there are requirements. 2453  
18 requires that there be an epidemic. 2451 requires that  
19 there be a determination of imminent danger. There has  
20 to be a reason behind the orders issued by the health  
21 officer. You know, if the health officer issues those  
22 orders, then they're valid.

23 Now, can a local health officer abuse his or  
24 her authority? Absolutely. What can be done? The  
25 county board hired them. The county board can fire them

1 and change the law. One can think of a number of  
2 situations where a local health officer could exceed his  
3 or her -- the grounds of common sense. Fire the officer,  
4 change the law, but until that's done, those persons who  
5 were unsuccessful in the last election have to wait until  
6 the next election, and if your side still loses, you have  
7 to comply with the rules that have been lawfully done  
8 until your side wins. It requires, I think, 56 votes in  
9 the House and I forget how many in the Senate and the  
10 Governor as well. So until you win, you have to comply  
11 with the rules. These rules are valid. Thank you very  
12 much. Thank you. Will you prepare the order?

13 MR VAN ESSEN: Yes.

14 THE COURT: Thank you.

15 MR. TOUNTAS: Thank you, your Honor.

16 THE COURT: Thank you.

17 (At 3:39 p.m., hearing concluded)  
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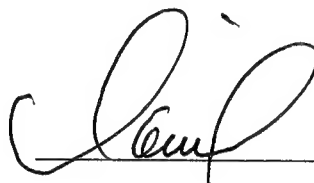
STATE OF MICHIGAN

COUNTY OF OTTAWA

I certify that that this transcript, consisting of 25 pages, is a complete, true, and correct record of the videotape of the proceedings and testimony taken in this case as recorded on Monday, December 6, 2021.

Date:

12-8-21



Lorri L. Coleman, CER 8536

Ottawa County 20<sup>th</sup> Circuit Court

414 Washington Avenue, Suite 300

Grand Haven, Michigan 49417

(616) 846-8230